

integrated marketplace (IM) to the detriment of ratepayers and of the greenhouse gas emissions goals that Ameren supposedly shares with Sierra Club.

Existing coal plants that can compete with wind in the IM are becoming a rarity. Ameren is adding 856 MW of wind for Renewable Energy Standard compliance without moving up its coal retirement dates. Sierra Club is not alone in noting Ameren's long capacity position. As long as Ameren fails to address concerns about the economics of its coal fleet, it will continue to attract suspicions of excess capacity and possible imprudence.

Rush Island remedies. In January 2017, a federal court found that Ameren violated the Clean Air Act when it modified its Rush Island power plant without obtaining the requisite permits and without installing best-available pollution control technology. The case is now in the remedies phase in the U.S. District Court for the Eastern District of Missouri. Plaintiffs in the case seek to remedy Rush Island's violations by (a) bringing Rush Island into compliance with the law, and (b) addressing the decade of pollution that Rush Island illegally emitted through pollution reductions at the Labadie power plant. As the Office of Public Counsel pointed out in its comments, the costs of remedying Rush Island's violations are potentially very high. Yet Ameren uses the excuse of ongoing litigation to refuse to address the range of potential litigation outcomes. The range of possible remedies forms a set of scenarios that are entirely appropriate for IRP modeling.

Sierra Club raised this issue in the last IRP case,³ so it is an unremedied deficiency.⁴

Special Contemporary Issues (SCIs)

In its order establishing SCIs in Case EO-2019-0065, the Commission said, "Ameren Missouri shall analyze and document the following special contemporary issues in its 2019 IRP

³ EO-2018-0038, Sierra Club Comments, p. 8 of Ezra Hausman's comments.

⁴ EO-2018-0038 Joint Filing, p. 13, ¶ 60.

Annual Update Report.” The Commission gave Ameren the leeway to explain as an alternative where the Commission might find the company’s treatment of these issues in a past or future filing, but for the most part Ameren has not even done that.

Securitization. The SCI order, ¶ 1.F, directs Ameren to analyze and document the prospects for using securitization to advance coal retirements and channel the savings into other investments including wind and solar generation. The Update (pp. 15–7)⁵ indicates that Ameren does not intend to do this, primarily for reasons of legislative uncertainty and because it has already decided to use traditional financing for any further renewable generation. A securitization bill has been introduced in each of the last two sessions of the Missouri legislature but has not passed yet. Ameren has had more than enough opportunity to evaluate the concept but, while acknowledging that securitization is a “potential tool” that “could provide another viable option and additional planning flexibility,” refuses to offer any position or willingness to engage on how the legislation could be improved from the company’s point of view.

Ameren has thus effectively announced in advance of its next triennial filing that it will not comply with the Commission’s Order on SCIs and that its 2020 IRP will be deficient by failing to adequately evaluate and model the costs of new supply side and, potentially, of new demand side resources, which could be financed from the savings realized by securitization.

Municipal and corporate energy goals. The SCI order, ¶ 1.Q, instructs Ameren to model these goals as candidate resource options. The Commission specifically mentions St. Louis City’s goals, which include the community-wide electric sector as well as City operations. Ameren’s update does not create candidate options or pledge to do so; it merely refers to the agreement in the Renewable Choice program for stakeholders to convene once the initial

⁵ See also Post-Workshop Summary, p. 3.

offering is fully subscribed and determine whether and how to proceed.⁶ Ameren is not in compliance with the SCI.

Coal ash disposal. The SCI order 1.S says, “Analyze and document the future capital and operating costs faced by each Ameren Missouri coal-fired generating unit in order to comply with all existing, pending, or potential environmental standards, including: ... (8) Coal Combustion Waste rules.”

It appears from the Update (pp. 7, 10), and statements to the media,⁷ that Ameren has decided to close and cap the existing ash ponds in place and not remove the ash for placement in lined landfills. Consequently the ash will continue to leach into the groundwater and contaminate it in perpetuity.

Ameren’s ash ponds descend below ground level where most of the ash is in continuous contact with groundwater. The leaching of toxins into groundwater has been detected at least three plants: Rush Island,⁸ Labadie,⁹ and Meramec.¹⁰

The regulations are in flux. U.S. EPA is in the process of revising the 2015 CCR rule, and Missouri DNR has just announced that it is withdrawing its rule. Nevertheless, an IRP must evaluate the probable environmental costs of regulations that may be imposed within the

⁶ Update, pp. 13–4.

⁷ <https://news.stlpublicradio.org/post/ameren-missouri-plans-close-all-coal-ash-ponds-will-leave-waste-place#stream/0>

⁸ 2018 Annual Groundwater Monitoring and Corrective Action Report, RCPA Surface Impoundment, Rush Island Energy Center, Golder Associates Inc., January 31, 2019, pp 1-2, available at https://www.ameren.com/-/media/corporate-site/files/environment/ccr-rule/2018/1531406_2018-rcpa-annual-report_2019-01-31.pdf?la=en&hash=B41C4FBF4190BBA8643E62EA3E4BCBF7EA205BEF.

⁹ 2018 Annual Groundwater Monitoring and Corrective Action Report, LCPA Surface Impoundment, Labadie Energy Center, Golder Associates Inc., January 31, 2019, pp 1-2. Available at https://www.ameren.com/-/media/corporate-site/files/environment/ccr-rule/2018/1531406_2018-lcpa-annual-report_2019-01-31.pdf?la=en&hash=5FCBD13ABBA5E8025C719D12A01255C2A9C7FA06

¹⁰ Hydrogeologic Assessment of Potential Impacts of Meramec Ash ponds on Local Groundwater and Surface Water, CH2MHill Inc., December 16, 1997, p 5.

planning horizon.¹¹ Ameren must model the full range of options for closure and disposal, including removal of ash from unlined ponds and disposal in lined landfills.

Respectfully submitted,

/s/ Henry Robertson
Henry B. Robertson
Great Rivers Environmental Law Center
319 N. Fourth St., Ste. 800
St. Louis, MO 63102
(314) 231-4181
hrobertson@greatriverslaw.org

Attorney for Sierra Club

CERTIFICATE OF SERVICE

I hereby certify that a true and correct PDF version of the foregoing was filed on EFIS and sent by email on this 7th day of June, 2019, to all counsel of record.

/s/ Henry Robertson
Henry Robertson

¹¹ 4 CSR 240-22.020(47).